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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,925	12/31/2001	Harald Timm	19086.3	5898

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EXAMINER

DUNWOODY, AARON M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,925

Applicant(s)

TIMM, HARALD

Examiner

Aaron M Dunwoody

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 1 and 4-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US patent 2823702, November.

In regards to claim 1, in figures 3 and 4, November discloses a bending pipe element made of metal for bending pipe sections and for return pipes in internal combustion automobile engines, the pipe element comprising a first set of undulations having a first outer diameter; and a second set of undulations having a second outer diameter different than the first outer diameter, the first and the second sets of undulations being disposed one behind the other in a longitudinal direction of the pipe element, wherein the second set of undulations is interposed between neighboring pairs of the first set of undulations and the first set of undulations is interposed between neighboring pairs of the second set of undulations.

In regards to claim 4, November discloses the first undulations of the unbent pipe element having an approximately same circular-segment shape.

In regards to claim 5, November discloses the second set of undulations of the unbent pipe element having the approximately same circular-segment shape.

In regards to claim 6, November discloses the first set and the second set of undulations having an approximately equal inner and outer radius.

Art Unit: 3679

In regards to claim 7, November discloses in the unbent pipe element, an inner radius and an outer radius of the first and the second set of undulations describing circular arcs of between 175° to 230° (not shown but implied).

In regards to claim 8, November discloses in the unbent pipe element, an inner radius and an outer radius of the first and the second set of undulations describing a circular arc of approximately 180° (not shown but implied).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over November.

In regards to claims 2 and 3, November discloses the claimed invention except for the first outer diameter of the first set of undulations exceeding the second outer diameter of the second set of undulations by 5% to 20%, relative to the second outer diameter; or the first outer diameter exceeding the second outer diameter by 10% to 15%, relative to the second outer diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the first outer diameter of the first set of undulations to exceed the second outer diameter of the second set of undulations by 5% to 20%, relative to the second outer diameter; or fabricate the first outer diameter so as to exceed the second outer diameter by 10% to

Art Unit: 3679

15%, relative to the second outer diameter, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

In regards to claims 12 and 13, November discloses the claimed invention except for the first and the second sets of undulations being fashioned from a wall thickness of between 0.2mm and 0.5mm, or the first and the second sets of undulations being fashioned from a wall thickness of approximately 0.4mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the first and the second sets of undulations from a wall thickness of between 0.2mm and 0.5mm, or fabricate the first and the second sets of undulations from a wall thickness of approximately 0.4mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Claims 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over November in view of US patent 4458722, Dahn.

In regards to claims 9 and 10, November discloses the claimed invention except for straight sections being disposed in the unbent pipe element between the inner and outer radius of the approximately circular segment shaped first and second sets of undulations, or substantially cylindrical, non-undulated connecting ends. Dahn discloses straight sections (25, 26) being disposed in the unbent pipe element (10) between the inner and outer radius of the approximately circular segment shaped first and second

sets of undulations (11,16), and substantially cylindrical, non-undulated connecting ends (25, 26) to connect with the exhaust system of an automobile. It would have been obvious to one having ordinary art at the time the invention was made to fabricate straight sections disposed in the unbent pipe element between the inner and outer radius of the approximately circular segment shaped first and second sets of undulations, and fabricate substantially cylindrical, non-undulated connecting ends to connect with the exhaust system of an automobile.

In regards to claim 11, November in view of Dahn discloses the claimed invention except for an average outer diameter of the first and the second sets of undulations exceeding an outer diameter of the connecting ends by 10% to 35%, relative to the outer diameter of the connecting ends. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate an average outer diameter of the first and the second sets of undulations to exceed an outer diameter of the connecting ends by 10% to 35%, relative to the outer diameter of the connecting ends, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the current state of the art.

Art Unit: 3679

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703) 306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

.amd  
March 20, 2003

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3670**